

1 STATE OF ILLINOIS
2 ILLINOIS COMMERCE COMMISSION
3

4 The Ameren Illinois Utilities)
5)
6 2008 -- 2010 Energy Efficiency) Docket 07-0539
7 And Demand Response Plan)
8 Filed on November 15, 2007)
9

10
11 Natural Resources Defense Council Exhibit 1.0

12 Direct Testimony of Henry Henderson
13

14 On Behalf of

15 The Natural Resources Defense Council
16
17
18

19 OFFICIAL FILE
J.C.C. DOCKET NO. 07-0539
NRDC Exhibit No. 1.0 W/ATT A
20
21 Witness _____
Date 1/4/08 Reporter _____
22
23

Submitted: December 15, 2007

24

25

DIRECT TESTIMONY OF HENRY HENDERSON

26 **Q. Please state your name and business address.**

27 A. My name is Henry Henderson. My address is 101 North Wacker Drive, Suite 609,
28 Chicago, IL, 60606.

29 **Q. Please identify your employer and your job title**

30 A. I am employed by the Natural Resources Defense Council, where I am Director of the
31 Midwest Regional Office.

32 **Q. What are your responsibilities in this position?**

33 A. I am responsible for overseeing and directing policy, programs and management of the
34 Natural Resources Defense Council's Midwest Office. NRDC's mission is to provide
35 fact-based advocacy, including law, science and policy action to solve environmental
36 problems. A key focus on NRDC's Midwest Office is energy policy and regulation,
37 including renewable energy, energy efficiency, coal, biofuels and global warming.

38 **Q. Do you have previous professional experience that relates to the testimony you here**
39 **provide?**

40 A. From 2000 – 2006 I was a partner at Policy Solutions, Ltd., based in Chicago, where I
41 provided policy, regulatory and economic analysis on environmental programs, policy,
42 legislation and regulations. I addressed energy, global warming, and government
43 relations, among other matters. From 1992 – 1998, I established and led the newly

44 created Department of the Environment for the City of Chicago. My areas of
45 responsibility included Chicago's energy policies, deregulation and enforcement of
46 regulations. From 1998 -- 2005 I was a lecturer at the University of Chicago on
47 Environmental Law and Policy.

48 Q. **What is your educational background?**

49 A. I received a Bachelor of Arts degree from Kenyon College in Gambier, Ohio and a J.D.
50 from Washington University School of Law in St. Louis, Missouri.

51 Q. **On whose behalf are you testifying?**

52 A. I am testifying on behalf of the Natural Resources Defense Council (NRDC). NRDC is a
53 non-profit membership organization with 1.2 million members and on-line activists
54 nationwide; 217,500 members and on-line activists in eight Midwest states¹ and 20,000
55 in Illinois. NRDC has a long-standing interest in promoting energy efficiency and other
56 demand-side resources as viable and cost-effective alternatives to conventional supply-
57 side generation resources such as coal and nuclear plants.

58 Q. **What is the purpose of your testimony?**

59 A. The purpose of my testimony is to provide testimony on the Ameren Illinois Utilities
60 2008 -- 2010 Energy Efficiency and Demand Response Plan and related issues.

61 Q. **Do you have comments about Ameren's proposed programs?**

¹ The states are: Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin.

62 A. I recommend Ameren consider adding two additional programs: 1. a Residential New
63 Construction Program, and 2. a Statewide Energy Efficiency Web Site with information
64 about energy efficiency, including tools, training, and program information administered
65 by DCEO with input from Ameren and ComEd. I describe each recommendation further
66 below.

67 Residential New Construction

68 I recommend that Ameren consider adding a Residential New Construction Program.
69 Many measures are less expensive to install during new construction than they are during
70 a retrofit. Thus, not installing energy efficient measures during the new construction
71 stage is said to create "lost opportunities." Other jurisdictions have had good program
72 penetration and success with residential new construction programs that offer designers
73 and builders design assistance and incentives for building homes that achieve energy
74 savings above a certain threshold level.

75 Statewide Energy Efficiency Web Site

76 Building awareness of energy efficiency and energy efficiency technologies will be an
77 important element of a successful energy efficiency portfolio. I recommend that the
78 portfolio administrators support development of a statewide web site that contains
79 information about energy efficiency measures, tools and resources, training, and a
80 description of all energy efficiency programs that are available statewide. Given
81 DCEO's role in promoting "market transformation" activities. I recommend that DCEO
82 be given the responsibility for creating and maintaining a statewide energy efficiency
83 web site, in coordination with ComEd and Ameren.

84 Q. **Do you have any comments about the Stakeholder Advisory Process?**

85 A. I participated in the stakeholder collaborative process that led to the development of the
86 Energy Efficiency and Demand Response Plans. I appreciated the opportunity to provide
87 input, and believe that a meaningful, ongoing Advisory Process as program details are
88 finalized, and programs are implemented and evaluated, is important for maximizing
89 benefits from the demand-side portfolio.

90 I recommend that the Commission authorize a Demand-Side Stakeholder Advisory
91 Process for all three portfolio administrators (ComEd, DCEO and Ameren). I further
92 recommend that the Commission authorize the following process elements.

93 1. Process is Advisory: The three portfolio administrators are accountable for achieving the
94 portfolio goals. Thus, they should have flexibility and discretion to manage the portfolio
95 and programs to meet their statutory obligations and any Commission-established policy
96 objectives and guidelines for the demand-side programs. Advisory Process members
97 should not be vested with decision-making authority but instead should serve as advisors
98 to improve the demand-side portfolio performance.

99 2. Statewide Combined Advisory Process: The Advisory Process should include all three
100 program administrators, ComEd, Ameren and DCEO. A separate process for each
101 administrator will not lead to statewide consistency and will be much more expensive for
102 stakeholders to participate in. Some program issues will be utility-specific and should be
103 handled in separate utility-specific working groups.

104 3. Required Notice and Comment for Certain Issues: To maximize the benefits from the
105 demand-side portfolio, the portfolio administrators should seek input from the
106 knowledgeable and dedicated community of stakeholders before making certain changes
107 to the portfolio or programs. Stakeholders should be given notice and the opportunity to

108 comment on key issues that could impact portfolio costs or savings as set forth in
109 Attachment A, appended hereto.

110 4. Meeting Format: So that stakeholders have time to meaningfully review issues that are
111 before them, I recommend that a meeting agenda and meeting materials be circulated a
112 specified number of days before the Advisory Process meetings.

113 5. Advisory Process Comment Tracking and Response System: After each meeting, the
114 meeting facilitator should summarize issues raised, proposed action items and
115 stakeholders questions. The meeting facilitator should work with the portfolio
116 administrators to prepare responses to all items and identify which items caused the
117 administrators to modify its portfolio or programs. The Comment Tracking and
118 Response System will help demonstrate to stakeholders that their participation resulted in
119 meaningful discussions and change.

120 In addition to the elements above that I recommend the Commission formally authorize, I
121 offer additional comments on the Advisory Process for the portfolio administrations and
122 other parties to consider as the Advisory Process moves forward. The additional
123 comments are set forth in Attachment A.

124 Q. **Do you have any comments about statewide consistency for the demand-side**
125 **portfolio?**

126 A. Many elements of the demand-side portfolio can be addressed consistently in Illinois.
127 Consistency serves to minimize costs and customer confusion, ease administrative burden
128 on the Commission and other stakeholders, and produces energy savings that are easier to
129 document. I recommend that Commission authorize the portfolio administrators to seek
130 statewide consistency for the following elements of the demand-side portfolio, and

consider others that stakeholders and Commission staff raise: 1. Statewide Energy Efficiency Web Site; 2. statewide public cost-effectiveness calculator and inputs and 3. statewide program data tracking and reporting system.

Statewide Energy Efficiency Web Site

As described above, I recommend that DCEO design and implement a Statewide Energy Efficiency and Demand Response web site, with input from ComEd and Ameren, as part of its market transformation, training and outreach goals to help build "brand awareness" of energy efficiency in IL.

Statewide Public Cost-Effectiveness Calculator and Inputs

The portfolio administrators used a proprietary tool to analyze proposed program savings. (ComEd Exhibit 1.0, p. A-6, fn 1.) For the future, it will be important to develop a public, transparent cost-effectiveness tool that the portfolio administrators, ICC staff, program implementers and other interested parties can use to evaluate prospective program and portfolio cost-effectiveness, monitor cost-effectiveness as the programs and portfolios are implemented, and develop new program ideas that may provide greater savings than the proposed programs.

I recommend that the portfolio administrators work together to develop a cost-effectiveness tool for measure-level, program and portfolio cost-effectiveness with input from the Advisory Process. Once the tool is developed, it should be available to the public for all parties to use to develop and evaluate proposed programs and projects. Similarly, given the absence of data for IL, the utilities reasonably used measure data from other jurisdictions. However, given the size of energy efficiency program expenditures in IL, I recommend that the portfolio administrators develop and agree to

154 use common measure savings and cost values for common measures. The measure
155 values can be updated once IL-specific EM&V results are produced. I also recommend
156 that the portfolio administrators develop a common approach for documenting savings
157 for less common measures so that staff and interested parties can review whether the
158 proposed measure-level savings and costs seem reasonable.

159 Statewide Program Data Tracking and Reporting

160 I recommend that the three portfolio administrators use the same program data tracking
161 and reporting tool so that the portfolio, program and measure-level data can be reviewed
162 and evaluated using common metrics and a common process. A common data set and
163 reporting format will ease the burden on ICC staff and other interested parties and lower
164 data tracking and reporting costs.

165 Consult Stakeholders on Other Aspects of the Demand-Side Portfolio that Should be
166 Addressed Statewide

167 I recommend that the portfolio administrators seek input from stakeholders on other
168 elements of the demand-side portfolio that should be statewide consistent, including and
169 in addition to those that are described in these comments.

170 **Q. Do you have any comments on the portfolio administrator's requests for broad**
171 **flexibility to modify the proposed programs after program approval?**

172 **A.** All three portfolio administrators request extremely broad flexibility to modify the
173 proposed programs after Commission approval, including the flexibility to shift funds
174 between programs. I support administrator flexibility to respond to market conditions
175 within certain guidelines. However, the ICC program approval process is meaningless if
176 the flexibility is unlimited. Thus, I recommend that the ICC should provide

177 administrators clear guidelines about what program and portfolio changes are appropriate
178 without seeking ICC approval, and what changes require either notice or comment to the
179 Advisory Stakeholder Process or the Commission. My recommendations on areas where
180 the Advisory Process stakeholders be given notice and the opportunity to comment are
181 set forth in Attachment A. I recommend that the ICC flexibility guidelines cover at least
182 the following topics:

- 183 • Shifting budgets between program
- 184 • Adding or deleting a program
- 185 • Adding or deleting measures

186 **Q. Do you have comments on how the 3% Evaluation, Measurement and Verification**
187 **budget should be spent?**

188 **A.** A 3% budget for EM&V is small to document program impacts, particularly for a new
189 suite of programs. Given the importance of documenting savings to verify whether the
190 portfolio administrators have met their statutory goals, I recommend that ICC rule that
191 the EM&V budget can only be spent to document impacts.

192 I agree that other studies that traditionally fall under the EM&V framework are
193 important, such as potential studies and market assessments. However, other funds
194 should and can be used for potential studies and market assessments, such as monies
195 designated for program marketing, since potential studies and market assessments can
196 help inform sound program design and effective program marketing. I recommend that
197 the ICC rules that EM&V funds can only be used to document savings from programs.

198 **Q. Do you have any recommendations on the energy efficiency and demand response**
199 **regulatory framework?**

200 A. For the demand-side portfolio to become a reliable resource and replace conventional
201 supply, effective government oversight of the portfolio is necessary. A robust regulatory
202 framework also promotes accountability, transparency and consistency, will help
203 maximize available cost-effective savings. I recommend that ICC direct staff to convene
204 a workshop that solicits comments from interested stakeholders about the attributes of
205 and appropriate procedural vehicle for developing an effective regulatory framework for
206 the demand-side portfolio. The workshop content and agenda should also reflect
207 recommendations from the recent Midwestern Governor's Association 2007 Energy
208 Summit on the demand-side portfolio.

209 Q. **Do you have any recommendations about the frequency and content of reports to**
210 **the Commission on portfolio and program progress?**

211 A. Regular reporting is important for several reasons. First, reporting reveals whether the
212 portfolio and programs are on track for meeting statutory goals and other policy
213 objectives, such as ensuring that low-income households are receiving services in
214 proportion to their share of total annual utility revenues in IL. Second, regular reporting
215 helps with portfolio risk mitigation. For example, if a large percentage of the portfolio
216 funds are being used for any one measure, the risks that the portfolio will not produce
217 expected savings increase if the savings from that measure turn out to be less than
218 forecast based on post-program EM&V. Third, regular reporting will help identify
219 programs that are not performing as expected and need mid-course corrections. Finally,
220 regular reports will help ensure that funds are being spent prudently. If funds are being
221 spent but savings are not produced, this fact might indicate that funds are not being
222 prudently spent.

223 I recommend that the Commission develop a regular reporting schedule, including
224 monthly, quarterly and annual reports that contain increasing levels of detail, as follows:

- 225 • Monthly Reports: I recommend a one-page summary that lists spending and
226 energy savings (including program commitments) by program.
- 227 • Quarterly Reports: I recommend cumulative savings and expenditures by
228 program, savings and expenditures by customer class (such as residential, low-
229 income, commercial, industrial, "public" customers such as schools, local
230 government and municipal corporations), and savings by end use.
- 231 • Annual Report: In addition to information I recommend be included in the
232 quarterly reports, I recommend a narrative description of successes and
233 challenges by program, discussion of programs and areas where the three
234 portfolio administrators are working together statewide to ensure consistency
235 where doing so reduces customer confusion, costs, and eases administrative
236 burdens on the ICC and other stakeholders, and the Advisory Process Comment
237 Tracking and Response System.

238 Q. Do you have any comments on how the Commission should provide oversight for
239 program costs to ensure program funds are being used prudently?

240 A. Program success and measure penetration are influenced by the magnitude of the
241 incentives that customers receive and the overall amount of the program incentive
242 budget. In general, the more money allocated to incentives, the more successful the
243 program will be. In contrast, program administrative costs do not necessarily correlate
244 with improved program performance. Furthermore, in other jurisdictions, energy

245 efficiency administrative costs have been used to cross-subsidize activities that don't
246 contribute to energy efficiency program success.

247 I recommend that the Commission identify, then define, a few broad cost
248 categories for energy-efficiency program expenses. Four cost categories that would
249 capture key distinct portfolio and program activities are: administration, implementation,
250 marketing and outreach, and incentives. I recommend that the Commission review
251 administrative costs to assess whether they are necessary and prudent.

252 Once cost-categories are defined, I recommend that the Commission monitor
253 administrative costs to ensure energy efficiency program dollars are spent to maximize
254 benefits from the demand-side portfolio and are not used to cross-subsidize other
255 activities.

256 **Do you have any concluding remarks?**

257 To summarize, NRDC recommends that the Commission approve Ameren's Energy
258 Efficiency and Demand Response Plan that is before it so that the programs can move
259 forward and start producing energy savings for the State of Illinois.

260 Furthermore, I recommend that Ameren consider adding two new programs; 1. a
261 Residential New Construction Program and 2. A Statewide Energy Efficiency Website
262 administered by DCEO in consultation with Ameren and ComEd.

263 Furthermore, in the order approving the Plans, I recommend that the Commission:

264 1. Authorize a Stakeholder Advisory Process, including the following elements:

- 265 • Process is advisory
- 266 • Statewide combined Advisory Process;
- 267 • Requirement of notice and comment for certain issues

268 • Meeting format

269 • Advisory Process Comment Tracking and Response System

270 2. Authorize the portfolio administrators to seek statewide consistency when doing so

271 would reduce costs and customer confusion, and reduce administrative burdens on the

272 ICC staff and interested stakeholders, including: a public and consistent cost-

273 effectiveness calculator, measure input values, statewide EE website and program data

274 tracking and reporting.

275 3. Adopt rules that govern what flexibility portfolio administrators have to modify the

276 portfolio and programs after Commission approval of the Plans that address the following

277 portfolio and program changes:

278 • Shifting budgets between programs

279 • Adding or deleting a program

280 • Adding or deleting measures

281 3. Rule that EM&V funds can only be used to document savings, and not for market

282 assessments, potential studies, or other types of studies that do not serve to document

283 program savings.

284 4. Direct ICC staff to host a workshop to consider attributes of and appropriate

285 procedural vehicle for developing an effective regulatory framework.

286 4. Mandate regular reporting (monthly, quarterly, annual) containing the information

287 described above.

288 5. Identify, then define, four cost categories that would capture key distinct portfolio and

289 program activities including: administration, implementation, marketing and outreach,

290 and incentives.

291

292

293

294

295

296

297

298

299

300

301

302

303

304

305

306

Attachment A:

**Principles and Guidelines
for the Advisory Demand-Side
Stakeholder Collaborative Process**

Overview

An inclusive, transparent, meaningful Advisory Demand-Side Stakeholder Collaborative Process ("Advisory Process") is essential for fostering the success of the emerging demand-side portfolio in Illinois, and helping demand-side options become viable and cost-effective alternatives to conventional supply-side generation resources such as coal and nuclear plants.

NRDC recommends the following principles and guidelines for the stakeholder process.

Stakeholder Collaborative Process Objectives

NRDC recommends the following objectives for the Advisory Demand-Side Stakeholder Collaborative Process:

Stakeholders shall be given the opportunity to advise the demand-side portfolio administrators on portfolio and program objectives, and on the design, administration, implementation and evaluation of the portfolio and programs to:

1. Help demand-side options become viable and cost-effective alternatives to conventional supply-side generation resources;
2. Maximize benefits and minimize costs associated with the demand-side portfolio and,
3. Monitor whether the portfolio and programs are meeting statutory and regulatory objectives.

Participants

We recommend that the following participants be included in the Stakeholder Process:

1. ComEd, Ameren, and DCEO

The Advisory Process will be time-consuming and resource intensive if participants are to provide meaningful and thoughtful input. Furthermore, many of the programs should be statewide consistent to maximize benefit and minimize

347 costs and consumer confusion. Thus, we recommend that the Advisory Process
348 include all three portfolio administrators.

349

350 **2. Environmental Groups**

351

352 Environmental Law and Policy Center, Environment Illinois, Natural Resources
353 Defense Counsel

354

355 **3. Consumer Groups**

356

357 Citizens Utility Board

358

359 **4. Energy Efficiency Stakeholders**

360

361 Midwest Energy Efficiency Alliance, Center for Neighborhood Technology

362

363 **5. State Government Representatives**

364

365 ICC Staff, Attorney General's Office, Governor's Energy Advisor

366

367 **6. Local Government Representatives**

368

369 Metropolitan Mayors Caucus, City of Chicago

370

371 **7. Trade Organizations**

372

373 Illinois Industrial Energy Consumers, Building Operators and Managers
374 Association

375

376 **8. The Public**

377

378 Members of the public should be permitted to attend meetings, observe and ask
379 questions or provide comments if time permits.

380

381

382 **Facilitation**

383

384 NRDC agrees with ComEd that meetings should be facilitated by an individual
385 accepted by all parties. If all parties can't agree, then the designated facilitator should
386 be the person who receives support from the greatest number of parties.

387 Process

388

389 1. Before the Meeting

390

391 We recommend the following pre-meeting activities:

392

- 393 • Meeting Notice: Meetings shall be noticed by e-mail to the Service List for Docket
394 No. 07 – 0540 and to members of the public who ask to be added to the meeting
395 service list.
- 396 • Meeting Agenda: At least two weeks before the meeting, the meeting facilitator
397 shall circulate a meeting agenda for review and comment. Participants may
398 request that discussion items be added to the agenda.
- 399 • Meeting Materials: All meeting materials shall be circulated at least five business
400 days before the meeting to allow time for meaningful review and comment.
401 Participants may submit written questions to be addressed before the meeting or
402 ask questions during the meeting on the meeting materials.
- 403 • Demand-Side Stakeholder Process Web Site: An Advisory Demand-Side
404 Stakeholder Process Web Site will be established, and meeting agendas,
405 materials, and post-meeting follow-up will be posted on the site for easy review
406 and access.

407

408 2. During the Meeting

409

- 410 • Time Allocated for Discussion/Comment: At least one-third of the meeting time
411 will be for comments and discussion by the Advisory Process members and
412 members of the public. The remaining time may be used for presentations by the
413 portfolio administrators.
- 414 • Public Discussion/Comment: Members of the public will be permitted to ask
415 questions and provide comments during the discussion period. However, if the
416 discussion period is limited, stakeholders will be given priority over members of
417 the public to provide comments and ask questions.
- 418 • Follow-Up Issues, Questions, Action Items: All questions, issues and action
419 items that are not resolved in the meeting will be transcribed for further follow-up.
- 420 • Meetings Not Transcribed: Meetings will not be transcribed.
- 421 • Polycom: The meetings should be transmitted by a polycom to permit remote
422 participation by those who cannot participate in person.

423

424

425 3. Post Meeting Follow-Up

426

427 • Comment Tracking and Response System: Within ten business days of the
428 meeting, the meeting facilitator will summarize issues raised, proposed action
429 items, and questions that stakeholders raise. The meeting facilitator shall work
430 with the portfolio administrators to prepare responses to all items. If the issue
431 cannot be addressed or resolved within the ten business days, then the
432 document will describe when and how the issue can be addressed or resolved.
433 The portfolio administrators shall identify which items resulted in a modification to
434 the portfolio or program elements.

435 The Comment Tracking and Response system will help demonstrate to
436 stakeholders that their participation resulted in meaningful discussions and
437 change.

438

439 Actions that Require Notice to the Advisory Process Members and an
440 Opportunity for Comment

441

442 We recommend that Advisory Process members be given the opportunity to comment
443 on the following for items:

444

- 445 1. Reallocating funds among program elements (such as between residential
446 lighting to residential HVAC) where the change for any specific budget is greater
447 than 20%;
- 448 2. Discontinuing approved program elements (such as discontinuing Single Family
449 Home Energy Performance);
- 450 3. Adding new program elements;
- 451 4. Increasing the administration, implementation or marketing budget more than
452 20% above the original approved funding levels for any program element;
- 453 5. Adding or deleting program measures;
- 454 6. Reducing the incentive budget for any program element below the amount
455 originally approved;
- 456 7. Change to whether a program is offered statewide or just by one portfolio
457 administrator; and
- 458 8. Dismissing ComEd's evaluation contractor, and hiring a new contractor.

459

460 Annual Review

461

462 On an annual basis, the portfolio administrators will hire an independent evaluator to
 463 survey the Advisory Process members to assess whether the process is accomplishing
 464 the stated objectives, and to identify ways to improve the process to make it more
 465 efficient, transparent and impactful.

466

467

468

469 **Advisory Demand-Side Stakeholder Collaborative Process**
 470 **Comment Tracking and Response System**

471

472

473 Meeting Date:

474 Meeting Attendees (including organizational and contact information):

475 Meeting Facilitator:

476

Issue, Question or Action Item <ul style="list-style-type: none"> Including person/party who raised item 	Response <ul style="list-style-type: none"> Proposed resolution or Timeline and process for resolving issue 	Resulting Impact on Demand-Side Portfolio or Program <ul style="list-style-type: none"> Was change made to portfolio or program as result of issue? How?

477

478

479

480

STATE OF ILLINOIS

)

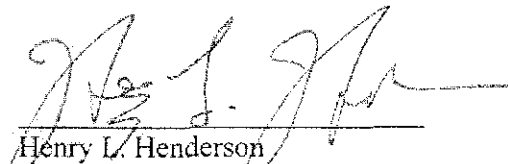
)SS

COOK COUNTY

)


VERIFICATION

Henry L. Henderson, being first duly sworn, on oath deposes and states that he is an attorney with the Natural Resources Defense Council, that he read the foregoing Testimony, that he knows its contents, and knows the contents to be true and accurate to the best of his knowledge and belief.



Henry L. Henderson
Natural Resources Defense Council
101 North Wacker Drive, Suite 609
Chicago, Illinois 60606
(312) 780-7432
FAX: (312) 663-9920
hhenderson@nrdc.org

SUBSCRIBED AND Sworn
to me on this 13 day,
December 2007.

 Notary Public

